

THE DISTRICT OF COLUMBIA
AND THE DISTRICT OF COLUMBIA

NY 100-10888

Case No. **SA 15 CR 0270**

FB

COUNT ONE: 18 U.S.C. § 371, Conspiracy;
COUNTS TWO–TWENTY-NINE: 26
U.S.C. §7206(2), Aiding and Abetting the
Preparation and Presentation of a False and
Fraudulent Tax Return

COUNT ONE
[18 U.S.C. § 371]

4. The IRS further permitted tax return preparers to assist taxpayers in the preparation of their tax returns, including by placing a taxpayer's information on an Individual

Income Tax Declaration for Electronic Filing, Form 8453, which would be signed by the taxpayer under penalty of perjury and sent to the IRS.

5. Defendant JOHN P. HERRERA was a resident of San Antonio, Texas. HERRERA did business as Community Tax Pro (CTP), providing income tax return preparation services in San Antonio, Texas. HERRERA became an authorized IRS e-file provider and received an Electronic Filing Identification Number (EFIN) on or about January of 2007.

6. Defendant CARLOS M BACA was a resident of San Antonio, Texas. HERRERA hired BACA as a tax return preparer at CTP on or about January of 2012. BACA became an authorized IRS e-file provider and was issued an EFIN on or about October of 2012.

7. F.V.M. was a resident of San Antonio, Texas. HERRERA hired F.V.M. as a receptionist at CTP in February of 2012. F.V.M. began preparing income tax returns at CTP on or about January of 2013.

THE CONSPIRACY

8. From on or about January 1, 2010, to on or about March 26, 2013, in the Western District of Texas, the Defendants,

JOHN P. HERRERA, (1)
CARLOS M. BACA, (2)

did unlawfully, voluntarily, intentionally, and knowingly conspire, combine, confederate, and agree together and with each other, and with other individuals known and unknown to the Grand Jury, to defraud the United States for the purpose of impeding, impairing, obstructing, and defeating the lawful government functions of the IRS in the ascertainment, computation, assessment, and collection of revenue: that is, CTP clients' income taxes.

MANNER AND MEANS

The manner and means by which the conspiracy was sought to be accomplished included, among others, the following:

9. HERRERA and BACA led clients of CTP to believe that HERRERA and BACA were knowledgeable and experienced tax return preparers who could maximize their clients' tax refunds.

10. HERRERA and BACA benefitted from repeat client business and CTP's reputation for securing large tax refunds for CTP's clients.

11. HERRERA and BACA prepared and filed income tax returns that claimed education credits for CTP clients who, as HERRERA and BACA then and there knew, were not entitled to claim such education tax credits. The false education credits reduced the tax due for such CTP clients, thereby increasing the refund paid to those clients.

12. HERRERA and BACA also prepared and filed income tax returns for CTP clients that included false material line items on Schedules A, Itemized Deductions, Schedules C, Profit and Loss from Business, Schedules E, Supplemental Income and Loss, and Forms 5695, Residential Energy Credits, that HERRERA and BACA then and there knew were false, including false claims for medical and dental expenses, employment mileage driven, charitable deductions, business profit and expenses, rental home profit and expenses, energy improvements to residence, and other matters. The false items reduced the taxable income and/or tax due for such CTP clients, thereby increasing the refund paid to those clients.

13. HERRERA used his EFIN to prepare and file income tax returns for CTP clients for tax years 2009, 2010, and 2011.

14. On or about April 30, 2012, IRS suspended HERRERA's EFIN. HERRERA,

BACA, and F.V.M. used BACA's EFIN to prepare and file income tax returns for CTP clients for tax year 2012.

OVERT ACTS

In furtherance of the conspiracy, and to affect the objects thereof, the following overt acts were committed in the Western District of Texas, and elsewhere:

15. HERRERA prepared and filed the following income tax returns containing false material statements:

- a. Income tax return filed on or about January 27, 2010, on behalf of taxpayer P.A. for tax year 2009;
- b. Income tax return filed on or about March 18, 2010, on behalf of taxpayers A.B. and T.B. for tax year 2009;
- c. Income tax return filed on or about February 7, 2011, on behalf of taxpayers A.B. and T.B. for tax year 2010;
- d. Income tax return filed on or about January 31, 2012, on behalf of taxpayers A.B. and T.B. for tax year 2011;
- e. Income tax return filed on or about February 13, 2010, on behalf of taxpayer A.G. for tax year 2009;
- f. Income tax return filed on or about February 12, 2011, on behalf of taxpayer A.G. for tax year 2010;
- g. Income tax return filed on or about January 14, 2012, on behalf of taxpayer A.G. for tax year 2011;
- h. Income tax return filed on or about March 22, 2011, on behalf of taxpayers M.G. and M.G. for tax year 2010;

i. Income tax return filed on or about February 16, 2012, on behalf of taxpayers M.G. and M.G. for tax year 2011;

j. Income tax return filed on or about March 2, 2010, on behalf of taxpayers J.M. and M.M. for tax year 2009;

k. Income tax return filed on or about February 2, 2011, on behalf of taxpayers J.M. and M.M. for tax year 2010;

l. Income tax return filed on or about January 31, 2012, on behalf of taxpayers J.M. and M.M. for tax year 2011;

m. Income tax return filed on or about February 27, 2010, on behalf of taxpayer R.M. for tax year 2009;

n. Income tax return filed on or about February 15, 2011, on behalf of taxpayer R.M. for tax year 2010;

o. Income tax return filed on or about February 8, 2010, on behalf of taxpayer D.M. for tax year 2009;

p. Income tax return filed on or about January 21, 2011, on behalf of taxpayer D.M. for tax year 2010;

q. Income tax return filed on or about March 25, 2010, on behalf of taxpayer E.S. for tax year 2009;

r. Income tax return filed on or about January 31, 2011, on behalf of taxpayer E.S. for tax year 2010;

s. Income tax return filed on or about January 30, 2012, on behalf of taxpayer E.S. for tax year 2011;

t. Income tax return filed on or about March 18, 2010, on behalf of

taxpayers D.T. and N.T. for tax year 2009;

u. Income tax return filed on or about February 13, 2010, on behalf of taxpayers J.W. and A.W. for tax year 2009;

v. Income tax return filed on or about February 19, 2011, on behalf of taxpayers J.W. and A.W. for tax year 2010;

w. Income tax return filed on or about February 11, 2012, on behalf of taxpayers J.W. and A.W. for tax year 2011.

x. Income tax return filed on or about February 15, 2013, on behalf of taxpayers J.W. and A.W. for tax year 2012;

16. BACA prepared and filed the following income tax returns containing false material statements:

a. Income tax return filed on or about February 14, 2013, on behalf of taxpayer P.A. for tax year 2012.

b. Income tax return filed on or about March 26, 2012, on behalf of taxpayer R.M. for tax year 2011.

c. Income tax return filed on or about February 15, 2013, on behalf of taxpayer R.M. for tax year 2012.

d. Income tax return filed on or about February 22, 2012, on behalf of taxpayers D.T. and N.T. for tax year 2011.

17. F.V.M., acting at the direction of HERRERA, prepared and filed the following income tax returns containing false material statements:

a. Income tax return filed on or about February 14, 2013, on behalf of taxpayer A.G. for tax year 2012.

b. Income tax return filed on or about February 14, 2013, on behalf of taxpayer E.S. for tax year 2012.

c. Income tax return filed on or about February 18, 2013, on behalf of taxpayers D.T. and N.T. for tax year 2012.

All in violation of Title 18, United States Code, Section 371.

COUNTS TWO THROUGH TWENTY-FIVE

[26 U.S.C. § 7206(2)]

18. The allegations contained in Count One are re-alleged and incorporated in their entirety as if fully set out herein.

19. On or about the date listed below, for each count listed below, in the Western District of Texas, the Defendant,

JOHN P. HERRERA, (1)

a resident of San Antonio, Texas, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, of a U.S. Individual Income Tax Return, Form 1040, for the taxpayers and calendar years set forth below, which returns were false and fraudulent as to material matters, in that they represented that the taxpayers were entitled, under the provisions of the Internal Revenue laws to claim credits for items and in amounts specified below, whereas, as the Defendant then and there knew, the taxpayers were not entitled to claim credits in the claimed amounts:

<u>Count</u>	<u>Date</u>	<u>Taxpayer</u>	<u>Year</u>	<u>Falsely claimed items</u>	<u>Amounts</u>
2	January 27, 2010	P.A.	2009	Education credits, line 31	\$1,500
				Refundable education credit, line 43	\$1,000
3	March 18, 2010	A.B., T.B.	2009	Education credits, line 49	\$4,500
				Refundable education credit, line 66	\$3,000
4	February 7, 2011	A.B., T.B.	2010	Education credits, line 49	\$4,500
				American opportunity credit, line 66	\$3,000

5	January 31, 2012	A.B., T.B.	2011	Education credits, line 49 American opportunity credit, line 66	\$3,000 \$2,000
6	February 13, 2010	A.G.	2009	Education credits, line 49 Refundable education credit, line 66	\$1,500 \$1,000
7	February 12, 2011	A.G.	2010	Education credits, line 31 American opportunity credit, line 43	\$1,500 \$1,000
8	January 14, 2012	A.G.	2011	Education credits, line 49 American opportunity credit, line 66	\$1,473 \$982
9	March 22, 2011	M.G., M.G.	2010	Education credits, line 49 American opportunity credit, line 66	\$489 \$326
10	February 16, 2012	M.G., M.G.	2011	Education credits, line 49 American opportunity credit, line 66	\$1,149 \$766
11	March 2, 2010	J.M., M.M.	2009	Education credits, line 49 Refundable education credit, line 66	\$2,656 \$2,000
12	February 2, 2011	J.M., M.M.	2010	Education credits, line 49 American opportunity credit, line 66	\$3,000 \$2,000
13	January 31, 2012	J.M., M.M.	2011	Education credits, line 49 American opportunity credit, line 66	\$2,888 \$1,925
14	February 27, 2010	R.M.	2009	Education credits, line 31 Refundable education credit, line 43	\$1,500 \$1,000
15	February 15, 2011	R.M.	2010	Education credits, line 49 American opportunity credit, line 66	\$1,405 \$936
16	February 8, 2010	D.M.	2009	Education credits, line 49 Refundable education credit, line 66	\$1,478 \$985
17	January 21, 2011	D.M.	2010	Education credits, line 49 American opportunity credit, line 66	\$1,493 \$995
18	March 25, 2010	E.S.	2009	Education credits, line 49 Refundable education credit, line 66	\$2,376 \$2,000
19	January 31, 2011	E.S.	2010	Education credits, line 31 American opportunity credit, line 43	\$2,987 \$1,992
20	January 30, 2012	E.S.	2011	Education credits, line 49 American opportunity credit, line 66	\$3,000 \$2,000
21	March 18, 2010	D.T., N.T.	2009	Education credits, line 49	\$4,500

				Refundable education credit, line 66	\$3,000
22	February 13, 2010	J.W., A.W.	2009	Education credits, line 49	\$3,000
				Refundable education credit, line 66	\$2,000
23	February 19, 2011	J.W., A.W.	2010	Education credits, line 49	\$4,500
				American opportunity credit, line 66	\$3,000
24	February 11, 2012	J.W., A.W.	2011	Education credits, line 49	\$4,209
				American opportunity credit, line 66	\$2,950
25	February 15, 2013	J.W., A.W.	2012	Education credits, line 49	\$2,444
				American opportunity credit, line 66	\$1,630

All in violation of Title 26, United States Code, Section 7206(2).

COUNTS TWENTY-SIX THROUGH TWENTY-NINE
[26 U.S.C. §7206(2)]

20. The allegations contained in Count One are re-alleged and incorporated in their entirety as if fully set out herein.

21. On or about the date listed below, for each count listed below, in the Western District of Texas, the Defendant,

CARLOS M. BACA, (2)

a resident of San Antonio, Texas, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, of a U.S. Individual Income Tax Return, Form 1040, for the taxpayers and calendar years set forth below, which returns were false and fraudulent as to material matters, in that they represented that the taxpayers were entitled, under the provisions of the Internal Revenue laws to claim credits for items and in amounts specified below, whereas, as the Defendant then and there knew, the taxpayers were not entitled to claim credits in the claimed amounts:

<u>Count</u>	<u>Date</u>	<u>Taxpayer</u>	<u>Year</u>	<u>Falsely claimed items</u>	<u>Amounts</u>
26	February 14, 2013	P.A.	2012	Education credits, line 49 American opportunity credit, line 66	\$1,500 \$1,000
27	March 26, 2012	R.M.	2011	Education credits, line 49 Refundable education credit, line 66.	\$939 \$626
28	February 15, 2013	R.M.	2012	Education credits, line 49 American opportunity credit, line 66	\$1,500 \$1,000
29	February 22, 2012	D.T., N.T.	2011	Education credits, line 49 American opportunity credit, line 66	\$1,500 \$1,000

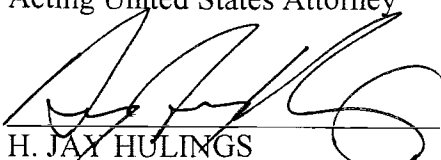
All in violation of Title 26, United States Code, Section 7206(2).

A TRUE BILL



FOREPERSON

RICHARD L. DURBIN, JR.
Acting United States Attorney



H. JAY HULINGS
Assistant United States Attorney